



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: HOha15010033
HUD No. [REDACTED]

JAMAL L. SMITH, in his official capacity as
EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,
Complainant,

v.

Bluffton Properties, LLC/ Maple Grove Trailer Park,
Respondent.

NOTICE OF FINDING and
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following finding with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On January 14, 2015, [REDACTED] ("Complainant") filed a Complaint with the Commission against Bluffton Properties, LLC/Maple Grove Trailer Park, ("Respondent") alleging unlawful discriminatory housing practices on the basis of disability in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5, *et seq.*), the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) and the Federal Fair Housing Act (42 U.S.C. § 3601, *et seq.*) The Commission, therefore, has jurisdiction over the parties and the subject matter of this Complaint. An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The first issue before the Commission is whether Respondent denied Complainant the opportunity to rent because of her grandson's disability. In order to prevail on such a claim, Complainant must show that 1) she is a member of a protected class; 2) she was qualified to rent in accordance with Respondent's reasonable terms and conditions; 3) she was denied the opportunity to rent; and 4) applicants without disabled children were treated more favorably under similar circumstances. It is evident that Complainant is a member of a protected class because she resides with a child under the age of 18 with a disability; however, there is insufficient evidence to show that she was qualified to rent from Respondent in accordance with its reasonable terms and conditions. Moreover, no evidence has been submitted or



uncovered to show that Respondent treated applicants without disabled children more favorably under similar circumstances.

By way of background, Complainant applied to rent a two-bedroom apartment from Respondent in November 2014. At all times relevant to the Complaint, Respondent's policies and procedures required applicants to submit to background and credit checks. Pursuant to policy and procedure, Respondent conducted a background check on Complainant and learned that Complainant had three disorderly conduct convictions, one criminal damaging conviction, at least 10 passing bad check convictions, several convictions related to the failure to confine a dog, and at least one eviction. It is important to note that several of the criminal convictions occurred recently including the eviction judgment entered in approximately November 2014. Ultimately, on or around December 8, 2014, Respondent denied Complainant's application to rent.

Despite Complainant's assertions, there is insufficient evidence to show that the denial of rent was related to her grandson's disability. Rather, evidence has been provided to show that Complainant was unqualified to rent from Respondent in a manner consistent with its reasonable terms and conditions. Moreover, no evidence has been provided or uncovered to show that Respondent rented apartments to applicants without disabled children with similar criminal histories. As such and based upon the aforementioned, there is no probable cause to believe that a discriminatory practice occurred as alleged.

Complainant may appeal the above no reasonable cause finding regarding the first issue to the full Commission. 910 IAC 1-3-2(g). The written appeal must be filed with the Commission within fifteen (15) days of receipt of this Notice and must include any new and additional evidence relied on by Complainant to support the appeal.

The second issue before the Commission is whether Respondent unreasonably delayed or denied Complainant's request for a reasonable accommodation. In this instance, Complainant must show that: 1) her grandson has a disability as defined under the applicable law; 2) Respondent was aware of the disability; 3) Complainant requested a reasonable accommodation related to her grandson's disability; and 4) Respondent unreasonably delayed or denied the request for a reasonable accommodation. In this instance, reasonable cause exists to believe that a discriminatory practice occurred as alleged.

During the course of the application process, Complainant alerted Respondent that her grandson used a service dog and provided a doctor's statement dated on or about November 3, 2014. However, Complainant asserts and Respondent admits that on or about December 8, 2014, Respondent told Complainant that the documentation was insufficient to establish that the dog was a "service dog" because the documentation called the dog an "emotional support animal" and that she needed to "register the dog as a service animal." Further, Respondent admitted during the investigative process that they have breed restrictions, including the prohibition against pit bulls and German shepherds. It is important to note that evidence

suggests that Complainant's grandson uses a German shepherd as an emotional support animal.

Despite Respondent's assertions, there is insufficient evidence to support their claims. Rather, Respondent admits that it imposes breed restrictions on all dogs and evidence appears that this restriction also applies to emotional support and service animals in contravention of the law. Further, as emotional support animals are not required to be "registered" under the Indiana Fair Housing Act or Federal Fair Housing Act, the request to have the animal "registered" is a violation of the applicable acts. Moreover, the doctor's statement provided by Complainant establishes a clear nexus between her grandson's disability and the requested accommodation; as such, the request for additional documentation is also a violation of the law. Simply stated, reasonable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law, and/or Title VIII of the Civil Rights Act of 1968, as amended, occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondent, Complainant, or another aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made not later than twenty (20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondent, and Complainant in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6. Moreover, Respondent shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. [REDACTED], and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing. If, at any time following service of this charge, Respondent intend to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondent must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

May 19, 2015

Date



Jamal L. Smith
Executive Director
Indiana Civil Rights Commission